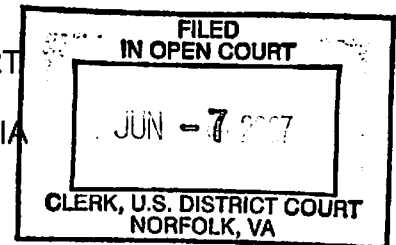


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



UNITED STATES OF AMERICA	)	CRIMINAL NO. 2:07cr <u>120</u>
)	
	)	21 U.S.C. 846
v.	)	Conspiracy to Possess with Intent to
	)	Distribute Heroin and Cocaine Base
LEWIS R. HARDY	)	(Count 1)
(Counts 1-3, 5-9))	
	)	21 U.S.C. § 841(a)(1)
	)	Possession with Intent to
	)	Distribute Heroin and Cocaine Base
THOMAS J. OUTTEN	)	(Counts 2, 3, 6, and 8)
(Counts 1-4),)	
	)	18 U.S.C. § 924(c)(1)
Defendants.	)	Possession of a Firearm in
	)	Furtherance of Drug Trafficking
	)	(Counts 4 and 9)
)	
	)	21 U.S.C. §§ 841(a)(1) and 860
	)	Possession with Intent to
	)	Distribute Heroin and Cocaine Base
	)	Within 1,000 Feet of a School
	)	(Counts 5 and 7)
)	
	)	21 U.S.C. § 853
	)	Forfeiture Allegation

INDICTMENT

JUNE 2007 Term - At Norfolk, Virginia

THE GRAND JURY CHARGES THAT:

COUNT ONE

From in or about April 10, 2007, and continuously thereafter up to and including May 1, 2007, at Norfolk, Virginia, in the Eastern District of Virginia, and elsewhere, LEWIS R. HARDY and THOMAS J. OUTTEN, the defendants herein, did unlawfully, knowingly and intentionally combine, conspire, confederate and agree together with each other and with other persons known and unknown to the Grand Jury, to commit the following offenses

against the United States:

1. To knowingly, intentionally, and unlawfully possess with intent to distribute five (5) grams or more of a mixture or substance containing a detectable amount of cocaine base commonly known as "crack," a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Section 841 (a)(1) and (b)(1)(B)(iii).

2. To knowingly, intentionally, and unlawfully possess with intent to distribute a quantity of a mixture or substance containing a detectable amount of heroin, a Schedule I narcotic controlled substance, in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C).

OVERT ACTS

In furtherance of the conspiracy and to accomplish one or more of the purposes thereof, the following overt acts, among others, were committed in the Eastern District of Virginia:

1. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY possessed 20 caps of heroin (approximately 2.56 grams) and a clear plastic baggie which contained approximately 1.32 grams of crack cocaine with the intent to distribute the heroin and crack cocaine.

2. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY possessed approximately 14.48 grams of marijuana in a clear plastic baggie.

3. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY possessed \$3,215.00 in four

bundles.

4. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, THOMAS J. OUTTEN possessed approximately 1 gram of marijuana in a clear plastic baggie.

5. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, THOMAS J. OUTTEN possessed a loaded Bersa .380 caliber pistol.

6. On or about April 10, 2007, in or near the 1200 block of Hibie Street, in Norfolk, within the Eastern District of Virginia, THOMAS J. OUTTEN possessed \$268.00.

7. On or about April 10, 2007, in or near the 900 block of Leake Street, in Norfolk, within the Eastern District of Virginia, in a blue 1995 Ford Explorer, LEWIS R. HARDY and THOMAS J. OUTTEN possessed a clear plastic baggie which contained approximately 22.7 grams of "crack" cocaine, and 2 clear plastic baggies which each contained 50 caps of heroin (approximately 13.47 grams) with the intent to distribute the cocaine and the heroin.

8. On or about April 10, 2007, in or near the 900 block of Leake Street, in Norfolk, within the Eastern District of Virginia, in a blue 1995 Ford Explorer LEWIS R. HARDY and THOMAS J. OUTTEN possessed marijuana and a digital scale.

9. On or about May 1, 2007, in or near the 1300 block of Cass Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY possessed 27 caps and 2 plastic baggies of heroin (in total, approximately 12.96 grams) and 18 clear plastic baggies of crack cocaine (approximately 3.04 grams) within 1,000 feet of the Early Childhood Development Center, a public elementary school, with the intent to distribute the heroin and crack

cocaine.

10. On or about May 1, 2007, in or near the 1300 block of Cass Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, possessed a loaded 9mm Glock handgun.

11. On or about May 1, 2007, in or near the 1300 block of Cass Street, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, possessed \$175.00.

(All in violation of Title 21, United States Code, Sections 846, 841(a)(1), (b)(1)(B) and (C) and 860.

COUNT TWO

On or about April 10, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY and THOMAS J. OUTTEN, the defendants herein, did unlawfully, knowingly, and intentionally possess with intent to distribute a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I narcotic controlled substance.

(In violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C).)

COUNT THREE

On or about April 10, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY and THOMAS J. OUTTEN, the defendants herein, did unlawfully, knowingly and intentionally possess with intent to distribute five (5) grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly known as "crack," a Schedule II narcotic controlled substance.

(In violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(iii).)

COUNT FOUR

On or about April 10, 2007, in Norfolk, Virginia, within the Eastern District of Virginia, THOMAS J. OUTTEN, the defendant herein, did unlawfully and knowingly possess a firearm, to wit: a Bersa .380 caliber pistol, in furtherance of a drug trafficking crime for which he may be prosecuted in a Court of the United States, that is in the offenses set forth in Counts One through Three of this indictment.

(In violation of Title 18, United States Code, Section 924 (c)(1).)

COUNT FIVE

On or about May 1, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, the defendant herein, did unlawfully, knowingly and intentionally possess with intent to distribute approximately 12.96 grams of a mixture and substance containing a detectable amount of heroin, a Schedule I narcotic controlled substance in violation of Title 21, United States Code, Section 841(a)(1) within 1,000 feet of a protected location; namely, the real property comprising the Early Childhood Development Center, a public elementary school.

(In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C) and 860.)

COUNT SIX

On or about May 1, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, the defendant herein, did unlawfully, knowingly and intentionally possess with intent to distribute approximately 12.96 grams of a mixture and substance containing a detectable amount of heroin, a Schedule I narcotic controlled substance.

(In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C) .)

COUNT SEVEN

On or about May 1, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, the defendant herein, did unlawfully, knowingly and intentionally possess with intent to distribute approximately 3.04 grams of a mixture and substance containing a detectable amount of cocaine base, commonly known as "crack," a Schedule II narcotic controlled substance in violation of Title 21, United States Code, Section 841(a)(1) within 1,000 feet of a protected location; namely, the real property comprising the Early Childhood Development Center, a public elementary school.

(In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C) and 860.)

COUNT EIGHT

On or about May 1, 2007, in Norfolk, within the Eastern District of Virginia, LEWIS R. HARDY, the defendant herein, did unlawfully, knowingly and intentionally possess with intent to distribute approximately 3.04 grams of a mixture and substance containing a detectable amount of cocaine base, commonly known as "crack," a Schedule II narcotic controlled substance.

(In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).)

COUNT NINE

On or about May 1, 2007, in Norfolk, Virginia, within the Eastern District of Virginia, LEWIS R. HARDY, the defendant herein, did unlawfully and knowingly possess a firearm, to wit: a Glock 9mm handgun, in furtherance of a drug trafficking crime for which he may be prosecuted in a Court of the United States, that is the offenses set forth in Counts One through Three and Five through Eight of this indictment.

(In violation of Title 18, United States Code, Section 924 (c)(1).)

FORFEITURE ALLEGATION

1. The defendants, LEWIS R. HARDY and THOMAS J. OUTTEN, if convicted of any violation alleged in Counts One through Three and/or Five through Eight of the Indictment, namely conspiracy to possess with the intent to distribute heroin and cocaine base, possession with the intent to distribute heroin, and possession with the intent to distribute cocaine base, shall forfeit to the United States:

- a. Any and all property constituting, or derived from, any proceeds the defendant obtained, directly or indirectly, as the result of such violations; and
- b. Any of the defendants' property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation; or
- c. Any other property of the defendants' up to the value of the property subject to forfeiture above, if any property subject to forfeiture above, (a) cannot be located upon the exercise of due diligence, (b) has been transferred to, sold to, or deposited with a third person, (c) has been placed beyond the jurisdiction of the Court, (d) has been substantially diminished in value, or (e) has been commingled with other property that cannot be subdivided without difficulty.

2. The property subject to forfeiture in paragraph 1 includes, but is not limited to, the following:

- a. Bersa .380 caliber semi-automatic pistol, serial #158700;
- b. \$3,483.00 seized by the Norfolk Police Department on April 10, 2007;
- c. 1995 Ford Explorer, Virginia tag number JZU8348, seized by the Norfolk Police Department on April 10, 2007;

- d. Glock 9mm semi-automatic handgun, serial #GRD648; and
- e. \$175.00 seized by the Norfolk Police Department on May 1, 2007.

(In violation of Title 21, United States Code, Section 853.)

UNITED STATES v. LEWIS R. HARDY and THOMAS J. OUTTEN

Criminal No. 2:07cr 120

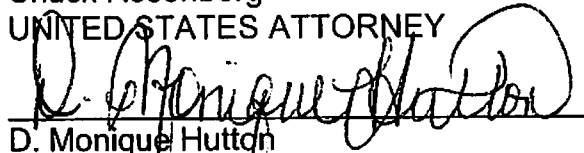
A TRUE BILL:

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

FOREPERSON

Chuck Rosenberg
UNITED STATES ATTORNEY

BY:



D. Monique Hutton
Special Assistant United States Attorney
Virginia State Bar No. 73865
U.S. Attorney's Office
101 W. Main St., Suite 8000
Norfolk, VA 23510
Office No.: 757-441-6331
Facsimile No.: 757-441-6689
E-mail Address: monique.hutton@usdoj.gov

JS 45 (11/2002)

Criminal Case Cover Sheet

U.S. District Court

Place of Offense: EDVA **Under Seal:** Yes ☐ No ☒ **Judge Assigned:** _____
City: Norfolk, VA **Superseding Information:** _____ **Criminal Number:** 2:07cr
County/Parish: _____ **Same Defendant:** _____ **New Defendant:** Lewis R. Hardy
Magistrate Judge Case Number: _____ **Arraignment Date:** _____
Search Warrant Case Number: _____
R 20/R 40 from District of: _____

Defendant Information:

Juvenile -- Yes ☐ No ☒ **FBI #:** _____
Defendant Name: Lewis R. Hardy **Alias Name(s):** _____
Address: [REDACTED] Virginia Beach, VA 23462
Employment: _____

Def
Birth date: [REDACTED]/1985 **SS#:** [REDACTED] 9690 **Sex:** M **Race:** Black **Nationality:** U.S. **Place of Birth:** _____
Height: 5'10" **Weight:** 180 **Hair:** Black **Eyes:** Brown **Scars/Tattoos:** _____
Interpreter: X No ☐ Yes ☐ **List language and/or dialect:** _____

Location Status:

Arrest Date: _____
 _____ **Already in Federal Custody as of:** _____ **in:** _____
☒ **Already in State Custody** ☐ **On Pretrial Release** ☐ **Not in Custody**
☒ **Arrest Warrant Requested** ☐ **Fugitive** ☐ **Summons Requested**
☐ **Arrest Warrant Pending** ☒ **Detention Sought** ☐ **Bond:** _____

Defense Counsel Information:

Name: _____ **Court Appointed:** _____
Address: _____ **Retained:** _____
Telephone: _____ **Public Defender:** _____

U.S. Attorney Information:

AUSA: D. Monique Hutton **Telephone No:** 757-441-6331 **Bar #:** _____

Complainant Agency, Address & Phone Number or Person & Title:

Bureau of Alcohol, Tobacco, Firearms & Explosives, 200 Granby Street, Suite 339, Norfolk, VA 23510, TFA Frank Balbo, 757-616-7400

U.S.C. Citations:

	<u>Code/Section</u>	<u>Description of Offense Charged</u>	<u>Count</u>	<u>Capital/Felony/Misd/Petty</u>
Set 1	21/846	Conspiracy to Possess With Intent to Distribute Heroin & Cocaine Base	1	Felony
Set 2	21/841(a)(1)	Possession With Intent to Distribute Heroin & Cocaine Base	2, 3, 6	Felony
Set 3	18/924(c)(1)	Possession of a Firearm in Furtherance of Drug Trafficking	9	Felony
Set 4	21/841(a)(1) & 860	PWID Heroin & Cocaine Base Within 1,000 Feet of a School	7	Felony
Set 5	21/853	Forfeiture Allegation		

REDACTED

JS 45 (11/2002)

Criminal Case Cover Sheet**U.S. District Court**

Place of Offense: EDVA **Under Seal:** Yes ___ No **X** **Judge Assigned:** _____
City Norfolk, VA **Superseding Information** _____ **Criminal Number:** 2:07cr
County/Parish _____ **Same Defendant** _____ **New Defendant** Thomas J. Outten
Magistrate Judge Case Number _____ **Arraignment Date:** _____
Search Warrant Case Number _____
R 20/R 40 from District of _____

Defendant Information:

Juvenile --Yes ___ No **X FBI #** _____
Defendant Name: Thomas J. Outten **Alias Name(s)** _____
Address: ██████████ Norfolk, VA
Employment: _____

Def
Birth date ██████ 1985 **SS#** ██████ 6400 **Sex** M **Race** Black **Nationality** U.S. **Place of Birth** _____
Height 6'0" **Weight** 165 **Hair** Black **Eyes** Brown **Scars/Tattoos** _____
Interpreter: **X** **No** ___ **Yes** **List language and/or dialect:** _____

Location Status:

Arrest Date _____
 ___ **Already in Federal Custody as of** _____ **in** _____
X **Already in State Custody** ___ **On Pretrial Release** ___ **Not in Custody**
X **Arrest Warrant Requested** ___ **Fugitive** ___ **Summons Requested**
 ___ **Arrest Warrant Pending** **X** **Detention Sought** ___ **Bond** _____

Defense Counsel Information:

Name: _____ **Court Appointed**
Address: _____ **Retained**
Telephone: _____ **Public Defender**

U.S. Attorney Information:

AUSA D. Monique Hutton **Telephone No:** 757-441-6331 **Bar #** _____

Complainant Agency, Address & Phone Number or Person & Title:

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Set 1	<u>21/846</u>	<u>Conspiracy to Possess With Intent to Distribute Heroin & Cocaine Base</u>	<u>1</u>	<u>Felony</u>
Set 2	<u>21/841(a)(1)</u>	<u>Possession With Intent to Distribute Heroin & Cocaine Base</u>	<u>2, 3</u>	<u>Felony</u>
Set 3	<u>18/924(c)(1)</u>	<u>Possession of a Firearm in Furtherance of Drug Trafficking</u>	<u>4</u>	<u>Felony</u>
Set 4	<u>21/853</u>	<u>Forfeiture Allegation</u>		